



Senate Committee On  
**GOVERNMENT EFFICIENCY  
APPROPRIATIONS**

Jeffrey H. "Jeff" Atwater, Chair  
Walter G. "Skip" Campbell, Jr., Vice Chair

**Meeting Packet**

Thursday, February 9, 2006  
1:30 p.m. – 5:00 p.m.  
110 Senate Office Bldg.

*(Please bring this packet to the committee meeting.  
Duplicate materials will not be available.)*

# E X P A N D E D      A G E N D A

## COMMITTEE ON GOVERNMENT EFFICIENCY APPROPRIATIONS

Senator Atwater, CHAIR  
Senator Campbell, VICE-CHAIR

DATE: Thursday, February 9, 2006  
TIME: 1:30 p.m. -- 5:00 p.m.  
PLACE: Room 110, Senate Office Building

(MEMBERS: Senators Diaz de la Portilla, Geller, Haridopolos and Posey)

TAB	BILL NO. AND INTRODUCER	BILL DESCRIPTION AND SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/CS/SB 0024 Commerce and Consumer Services / Baker ET AL (Compare H 0047)	Hurricane Preparedness/Sales Tax; provides exemption from sales & use tax for sales of certain tangible personal property for certain periods; authorizes DOR to adopt rules.  DS 12/07/05 CS CM 01/25/06 CS/CS GE 02/09/06 WM	
2	SB 0424 Fasano (Compare H 0811)	Cardrooms; deletes provision authorizing cardrooms to operate only during authorized pari-mutuel events; deletes exception that allows pari-mutuel permitholders to operate cardrooms on certain days when they are not holding pari-mutuel events; provides hours of operation for cardrooms at any horserace, greyhound, or jai alai facility that conducted full schedule of racing or games in preceding year. Amends 849.086.  RI 01/10/06 FAVORABLE GE 02/09/06 GA RC	
3	SB 0692 Webster (Similar H 0029)	Sales Tax/School Supplies & Clothing; specifies period during which sale of books, clothing, & school supplies is exempt from tax on sales, use, & other transactions; provides definitions; provides exceptions; authorizes DOR to adopt rules.  GE 02/09/06 WM	
4	SB 1198 Atwater	Corporate Income Tax; provides for adoption of 2006 version of Internal Revenue Code; provides for retroactive operation. Amends 220.03.  GE 02/09/06	
Consideration of proposed committee bill (Interim Project 2006-127 - Government Efficiency Initiative):			
5	SPB 7080	Education Facilities; expresses legislative intent to revise laws re education facilities planning & cost reduction.  GE 02/09/06	

(PRELIMINARY DRAFT AVAILABLE - FINAL DRAFT WILL BE MADE AVAILABLE AT LEAST 48 HOURS PRIOR TO THE MEETING)

# 1

## SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Government Efficiency Appropriations Committee

BILL: CS/CS/SB 24

SPONSOR: Committee on Commerce and Consumer Services, Committee on Domestic Securities, Senator Baker, and others

SUBJECT: Hurricane Preparedness/Sales Tax

DATE: February 2, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue	Skelton	DS	Fav/CS
2.	Barrett	Cooper	CM	Fav/CS
3.	Keating <i>mk</i>	Johansen <i>as</i>	GE	Pre-meeting
4.			WM	
5.				
6.				

### I. Summary:

This committee substitute provides for a sales tax exemption for the purchase of items typically associated with hurricane preparedness and for the purchase of certain items used to protect a structure from possible damage resulting from a hurricane or tropical storm. This committee substitute specifies that these items will be exempt from sales tax from May 21, 2006 through June 1, 2006, and from May 20, 2007 through May 31, 2007. This committee substitute also provides an appropriation for program administration.

### II. Present Situation:

Pursuant to ch. 212, F. S., the State of Florida levies a 6 percent sales and use tax on most sales of tangible personal property and a limited number of services. Section 212.08, F.S., provides for specific exemptions from the sales and use tax imposed by this chapter. The statutes currently provide more than 200 non-service exemptions. Exemptions generally take the form of identifying specifically exempt items, exempting items when used for particular purposes, and exempting purchases or sales by certain types of organizations, such as the government, churches, and charitable organizations.

Local governments are authorized to levy several types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The maximum they may levy in total is 2.5 percent. Under the provisions of s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions "subject to the state tax imposed on sales, use, services, rentals, admissions, and other transaction" by ch. 212, F.S. and on communications services by ch. 202, F.S. The surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property. This

\$5,000 cap does not apply to the sale of any service. As of December 2005, 58 counties levied at least one discretionary sales surtax and 13 counties levied at least two.<sup>1</sup>

The Florida Office of Insurance Regulation estimated the expected gross loss for the four major hurricanes that struck Florida in 2004 to be \$21.5 billion.<sup>2</sup> The initial estimates for 2005 are up to \$14 billion.<sup>3</sup> While it is impossible to estimate how much additional damage was averted by citizens' hurricane preparedness during the 2005 hurricane season, the Division of Emergency Management routinely recommends procuring materials to protect structures and for use in making emergency repairs. The division also recommends having such items as portable radios, flashlights, sufficient batteries to power them for two weeks, first aid kits, and containers for drinking water on hand for storm events.

The 2004 and 2005 hurricane seasons also had a significant impact on state revenue collections. The General Revenue Consensus Estimating Conference estimated that spending on repair and replacement of property destroyed by the four hurricanes in 2004 would result in \$752 million in additional revenue through June of 2006.<sup>4</sup> Impact estimates from the 2005 hurricane season are not yet available.

Chapter 2005-40, L.O.F., authorized a sales tax exemption for hurricane preparedness items from June 1, 2005 through June 12, 2005.

### III. Effect of Proposed Changes:

**Section 1** establishes a sales tax exemption for specified items related to hurricane preparedness during the periods of May 21, 2006 through June 1, 2006, and May 20, 2007 through May 31, 2007. The specified items are:

- any portable, self-powered light source having a selling price of \$20 or less;
- any portable self-powered radio, two-way radio, or weather-band radio having a selling price of \$50 or less;
- any tarpaulin or flexible waterproof sheeting selling for \$50 or less;
- any ground anchor system or tie-down kit selling for \$50 or less;
- any gas or diesel fuel tank selling for \$25 or less;
- any package of AAA-cell, AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile or boat batteries, selling for \$30 or less;
- any cell phone battery selling for \$60 or less and any cell phone charger selling for \$40 or less;
- any non-electrical food-storage cooler selling for \$30 or less;
- any portable generator used to provide light, communications, or food preservation in the event of a power outage selling for \$1,000 or less; and
- any storm shutter device selling for \$300 or less.

<sup>1</sup> Florida Legislative Committee on Intergovernmental Relations, *2006 Local Discretionary Sales Surtax Rates in Florida's Counties*.

<sup>2</sup> Florida Office of Insurance Regulation, *Hurricane Reporting Summaries*, January 20, 2005.

<sup>3</sup> Florida Insurance Council, *First Modern, Highly Developed State to Face Eight Major Hurricanes in a Year*, Nov. 8, 2005.

<sup>4</sup> General Revenue Consensus Estimating Conference, *Final Results*, November 12, 2004.

This committee substitute also authorizes the Department of Revenue (DOR) to adopt rules under ss.120.536 (1) and 120.54, F.S., to implement the provisions of the committee substitute.

**Section 2** provides for an appropriation of \$221,400 from the General Revenue Fund to the DOR for administration of the tax exemption.

**Section 3** provides that the committee substitute shall take effect upon becoming law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the legislature by 2/3 vote of the membership, the legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority exists on February 1, 1989.

This committee substitute provides for a sales tax exemption that would reduce the municipalities' and counties' sales tax collections, thereby reducing their revenue-raising authority. The Revenue Estimating Conference has not yet estimated the impact of this committee substitute; however, it estimated the impact of similar legislation introduced in the 2005 Regular Session. The fiscal impact to local governments of a sales tax exemption for hurricane preparedness items (including generators and plywood) was estimated to be between \$7.9 and \$8.8 million. Because of the potential significant impact to local governments, this committee substitute may require a two-thirds vote of the membership of each house of the Legislature.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

Chapter 2005-40, L.O.F., authorized a sales tax exemption for hurricane preparedness items from June 1, 2005 through June 12, 2005. This committee substitute reinstitutes the hurricane preparedness sales tax exemption for calendar year 2006 and 2007 and realigns the exemption period to coincide with the National Hurricane Preparedness Week. Establishing the 2006 exemption period from May 21, 2006 through June 1, 2006, will impact state Fiscal Year 2005-2006 state and local sales tax revenue.

The Revenue Estimating Conference has not yet estimated the impact of this committee substitute. However, the Revenue Estimating Conference estimated the impact of similar legislation introduced during the 2005 Legislative Session.

In March 2005, the Revenue Estimating Conference estimated the fiscal impact of similar legislation -- a sales tax exemption period for hurricane preparedness items including plywood and generators -- to be a decrease in state and local sales tax revenue of \$45.7-\$50.7 million.

In April 2005, the Revenue Estimating Conference estimated the fiscal impact of a sales tax exemption for hurricane preparedness items -- excluding plywood and generators -- to be a decrease in state and local sales tax revenue of \$9.6 million.

**B. Private Sector Impact:**

During the specified period, hurricane preparedness items can be purchased for 6 percent to 8.5 percent less, depending on the local option tax rate. The timing of the tax-free period will allow Floridians to save money and be encouraged to prepare themselves prior to the usual heightened tropical storm/hurricane threat period.

**C. Government Sector Impact:**

The DOR is authorized to adopt rules under ss.120.536(1) and 120.54, F.S., to carry out the provisions of this committee substitute and is appropriated \$221,400 from the General Revenue Fund for administrative purposes.

This committee substitute authorizes a second sales tax exemption period in 2007, which may require an increased appropriation for administration of the additional period.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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743124

## CHAMBER ACTION

SenateHouse

# GOVERNMENT EFFICIENCY APPROPRIATIONS

DATE: 2/8/06  
TIME: 9:00 am

The Committee on Government Efficiency Appropriations (Geller) recommended the following amendment:

## Senate Amendment

On page 2, between lines 4 and 5,

insert:

(k) Any carbon monoxide detector selling for \$100 or less.

(1) Any product consisting of two or more of the items listed in paragraphs (a)-(k) selling for \$200 or less.



Bill No. CS for CS for SB 24



604156

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Senate

## CHAMBER ACTION

House

# GOVERNMENT EFFICIENCY APPROPRIATIONS

DATE: 2/8/06  
TIME: 12:15 PM

The Committee on Government Efficiency Appropriations (Haridopolos) recommended the following amendment:

### Senate Amendment

On page 2, between lines 4 and 5,

insert:

(k) Any carbon monoxide detector selling for \$75 or less.

(1) Any single product consisting of two or more of the items listed in paragraphs (a)-(k) selling for \$200 or less.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Government Efficiency Appropriations Committee

BILL: SB 424  
INTRODUCER: Senator Fasano  
SUBJECT: Cardrooms  
DATE: February 2, 2006 REVISED:

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Sumner	Imhof	RI	Favorable
2. Keating	Johansen	GE	Pre-meeting
3.		GA	
4.		RC	
5.			
6.			

I. Summary:

The bill provides that a pari-mutuel permitholder that conducted a full schedule of live racing during the preceding year may operate a cardroom on any day between the hours of 12 noon and 12 midnight.

This bill substantially amends section 849.086 of the Florida Statutes.

II. Present Situation:

A cardroom may be operated only at the location specified on the cardroom license issued by the division and such location may be only where such permitholder is authorized to conduct pari-mutuel wagering activities subject to its pari-mutuel permit. Section 849.086(2)(c), F.S., defines “cardroom” to mean a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility. Authorized games and cardrooms do not constitute casino gaming operations.

Section 849.086(2)(a), F.S., defines “authorized game” at a cardroom as a game or series of games of poker which are played in a nonbanking manner. Authorized cardroom games or series of games of poker may not exceed a \$2 bet with a maximum of three raises in any round of betting.

Up until 2003, an “authorized game” at a cardroom included “penny-ante games” as defined in s. 849.085, F.S., which includes a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg. Chapter 2003-295, L.O.F., amended s. 849.086(2)(a), F.S., to eliminate these games from the definition of “authorized game.”

Dominoes, along with poker, pinochle, bridge, rummy, canasta, hearts, and mah-jongg, is still allowed to be played in an penny ante game authorized under s. 849.085, F.S., This section authorizes penny ante games to be played in residential premises and certain common areas of community associations and college dormitories and recreational rooms. For a penny ante game, the winnings of any player in a single round, hand, or game may not exceed \$10 in value.

A “banking game” is defined in s. 849.086(2)(b), F.S., as “a game in which the house is a participant in the game, taking on players, paying winners, and collecting from losers or in which the cardroom establishes a bank against which participants play.”

No person may operate a cardroom in this state unless the person holds a cardroom license issued by the Division of Pari-mutuel Wagering (division).<sup>1</sup> Only licensed pari-mutuel permitholders may hold a valid cardroom license.

Section 849.086(7)(b), F.S., provides that a cardroom may operate between the hours of 12 noon and 12 midnight on any day a pari-mutuel event is conducted live as a part of its authorized meet. A “meet” is defined as the “conduct of live racing or jai alai for any stake, purse, prize, or premium.”<sup>2</sup>

In addition, any permitholder who holds a valid cardroom license may operate a cardroom between the hours of 12 noon and 12 midnight on any day that live racing of the same class of permit is occurring within 35 miles of its facility, if no other holder of that same class of permit within 35 miles is operating a cardroom at such time and if all holders of the same class of permit within the 35 mile area have given written permission to the permitholder to operate the cardroom during the designated period. There are currently 17 cardrooms with the latest having opened in Hamilton County at the new Jai Alai fronton. The Department of Business of Professional Regulation reports as of November for the fiscal year 2005/2006, the total handle from the tracks and frontons was \$537,102,810 and the gross receipts for cardrooms was \$17,625,938.

In May 2004, Daytona Beach Kennel Club (DBKC) submitted a revised cardroom calendar which contended that under s. 849.086(7)(b), F.S., if at least one Saturday race occurred after 12:00 midnight, the Sunday cardroom operation would be permitted without any additional pari-mutuel events being held that day. The Department of Business and Professional Regulation (department) disagreed with this interpretation replying in part that DBKC’s proposal violated the spirit if not the letter of the law. Several dog tracks challenged this agency statement as an unadopted rule.<sup>3</sup> The Division of Administrative Hearings ruled that the department’s letter was not an unadopted rule and the First District Court of Appeal affirmed the decision.<sup>4</sup>

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<sup>1</sup> Section 849.086(5), F.S.

<sup>2</sup> Section 550.002(20), F.S.

<sup>3</sup> *St. Petersburg Kennel Club, Inc., West Flagler Associates, LTD., Associated Outdoor Clubs, Inc., Washington County Kennel Club, Inc., Daytona Beach Kennel Club, Inc., and Southwest Florida Enterprises, Inc. vs. Department of Business and Professional Regulation, Division of Pari-mutuel Wagering*, DOAH Case No. 04-2470RU.

<sup>4</sup> *St. Petersburg Kennel Club, Inc., et al. v. Department of Business and Professional Regulation, Division of Pari-mutuel Wagering*, 911 So. 2d. 1238 (1<sup>st</sup> DCA 2005)

Section 849.086(7)(c), F.S., provides that a cardroom operator must employ and provide a nonplaying dealer for each authorized card table at the cardroom. The dealers may not have any participatory interest or an interest in the outcome of the game. The providing of the dealers by a licensee shall not be construed as constituting the conduct of a banking game by the cardroom operator.

Section 849.086(8)(a), F.S., provides that a wagering system must be used at the cardrooms. Wagering systems require the house to convert all players' money to tokens or chips which are then allowed be used for wagering at the specific cardroom.

Section 849.086(13), F.S., provides that each cardroom operator shall pay a tax to the state of 10 percent of the cardroom operations' monthly gross receipts. In addition, there is an annual cardroom license fee of \$1,000 for the first table and \$500 for each additional table operated at the cardroom. Total collections for fiscal year 2004-05 on the gross receipts of cardrooms were \$4,046.977 million (an increase of over \$2.5 million from last fiscal year), while \$238,000 was collected in table license fees.

### **III. Effect of Proposed Changes:**

**Section 1.** The bill amends s. 849.086(7)(b), F.S., to permit a horserace, greyhound or jai alai permitholder to operate a cardroom at the pari-mutuel facility on any day between the hours of 12 noon and 12 midnight if the permitholder conducted a full schedule of live racing or games in the preceding year.

It deletes the provisions that:

- Provides for the operation of cardrooms at a pari-mutuel facility that is authorized to accept wagers on pari-mutuel events only during its authorized meet;
- Allows the operation of a cardroom between the hours of 12 noon and 12 midnight when live racing or games are being conducted as part of the permitholder's authorized meet;
- Allows the operation of cardrooms between the hours of 12 noon and 12 midnight on any day that live racing of the same class of permit is occurring within 35 miles of its facility, if no other holder of that same class of permit within 35 miles is operating a cardroom at such time and if all holders of the same class of permit within the 35 mile area have given their permission in writing to the permitholder to operate the cardroom during the designated period. (This provision is applicable to the Jacksonville area permitholders and Tampa Greyhound Track and St. Petersburg Kennel Club.)

**Section 2.** The act takes effect July 1, 2006.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

The Revenue Estimating Conference has not reviewed this bill. According to the department, the bill could potentially increase state revenue by approximately \$910,000 depending on increases in actual card room operating days.

**B. Private Sector Impact:**

According to the department, permitholders that operate cardrooms would likely realize an increase in card room operating days which should result in an increase in cardroom revenue.

**C. Government Sector Impact:**

The division anticipates that existing personnel and resources will be adequate to cover any increase in workload.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

According to the department, the bill creates a potential dispute over cardroom operations if the term “full schedule of racing or games” contained in s. 550.002(11), F.S., is amended in the future. The bill does not specifically reference the definition of “full schedule of racing or games” contained in that section. Therefore, how the term would be interpreted relative to cardroom operations could be the subject of litigation should the pari-mutuel definition of the term be changed in the future.

The department further states that passage of this bill would resolve a dispute between the division and cardroom operators at various greyhound tracks in the state who believe that running a race or game after midnight on one day entitles them to operate a cardroom from 12 noon to 12 midnight on the next day under the current language of the statute. Currently the parties are still in disagreement over the underlying interpretation of the section.

## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Government Efficiency Appropriations Committee

BILL: SB 692

INTRODUCER: Senator Webster

SUBJECT: Sales Tax Holiday on Books, Clothing and School Supplies

DATE: February 1, 2006 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Keating <i>mk</i>	Johansen <i>mk</i>	GE	Pre-meeting
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill provides that no sales and use tax will be collected on sales of books, clothing, wallets, or certain bags having a selling price of \$50 or less during the last 9 days of July 2006. The bill also provides that no sales and use tax shall be collected on sales of school supplies having a selling price of \$10 per item or less during that same period of time.

II. Present Situation:

Pursuant to chapter 212, F.S., the State of Florida levies a 6 percent sales and use tax on most sales of tangible personal property and a limited number of services. Section 212.08, F.S., provides for specific exemptions from the sales and use tax imposed by this chapter. The statutes currently provide more than 200 non-service exemptions. Exemptions generally take the form of identifying specifically exempt items, exempting items when used for particular purposes, and exempting purchases or sales by certain types of organizations, such as the government, churches, and charitable organizations. Section 212.08(7), F.S., provides for 54 miscellaneous exemptions.

Local governments are authorized to levy numerous types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The maximum they may levy is 2.5 percent. Under the provisions of s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions “subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions” by chapter 212, F.S. and on communications services by chapter 202, F.S. In addition, the surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service.

In 1998, 1999, 2000, 2001, 2004, and 2005 the Legislature created the “Florida Residents Tax Relief Act”. (Chapters 98-341, 99-229, 2000-175, 2001-148, 2004-73, L.O.F., and 2005-271, L.O.F.) In 2005, the act provided that no sales and use tax would be collected on sales of books, clothing, wallets, or bags having a selling price of \$50 or less during the last 9 days of July 2005. The term “book” was defined to mean a set of printed sheets bound together and published in a volume but did not include newspapers, magazines or other periodicals. The term “clothing” was defined to mean any article of wearing apparel intended to be worn on or about the human body, including all footwear, except skis, swim fins, roller blades, and other skates but did not include watches, watchbands, jewelry, umbrellas, or handkerchiefs. The term “bags” included handbags, backpacks, fanny packs, and diaper bags but excluded briefcases, suitcases, and other garment bags. Also exempt were school supplies having a selling price of \$10 per item or less. The term “school supplies” included pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer discs protractors, compasses, and calculators.

### **III. Effect of Proposed Changes:**

**Section 1.** The bill provides that no sales and use tax will be collected on sales of books, clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of \$50 or less during the last 9 days of July 2006. The term “clothing” means any article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body, but excludes watches, watchbands, jewelry, umbrellas, and handkerchiefs. The term “book” means a set of printed sheets bound together and published in a volume, but does not include newspapers, magazines, or other periodicals. This sales tax exemption, however, does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport, as defined in ss. 509.013(4) and 330.27(2), F.S.

This bill also provides that no sales and use tax shall be collected on sales of school supplies having a selling price of \$10 per item or less during the last 9 days of July 2006. The term “school supplies” means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, protractors, computer discs, compasses, and calculators. This sales tax exemption, however, does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport, as defined in ss. 509.013(4) and 330.27(2), F.S. The Department of Revenue may adopt rules to administer the provisions in the bill.

**Section 2.** The bill appropriates to the Department of Revenue \$206,000 from the General Revenue Fund for the purpose of administering the provisions of the bill.

**Section 3.** The bill takes July 1, 2006.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

This bill falls under subsection (b) of s. 18 of Art. VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general



law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate. By adding an exemption to the state sales tax, this bill has the effect of adding an exemption to the local option county sales surtax. Since the annual local revenue loss is estimated to be more than \$1.7 million, this bill will not be exempt from the requirements of subsection (b).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

The bill has not been reviewed by the Revenue Estimating Conference. The estimated fiscal impact of last years “Sales Tax Holiday” (HB 101) was a non-recurring total loss of \$37.9 million: \$31.2 million in General Revenue; \$0.1 million to the Ecosystem and Restoration Management Trust Fund; and \$6.6 million to local governments.

**B. Private Sector Impact:**

During the specified period, books, clothing, wallets, and bags selling for \$50 or less and school supplies selling for \$10 or less can be purchased for 6 percent to 8.5 percent less depending on the local option tax rate. Given the timing of the tax-free period, families will be able to save money on books, clothing and school supplies prior to the beginning of the school year. Moreover, the tax exemptions provided by the bill should significantly increase sales of exempt items during the nine tax-free days.

Although retail sellers may incur some costs for the reprogramming of cash registers and accounting systems, these costs should be mitigated by the existence of procedures developed for previous tax-free shopping periods.

**C. Government Sector Impact:**

The Department of Revenue may adopt rules to carry out the provisions of the bill and is appropriated \$206,000 from the General Revenue Fund for administrative purposes. As for the previous tax free holidays, the department would promulgate a rule that provides a comprehensive list of clothing items, school supplies and their taxable statuses pursuant to the bill. According to the department, the use of an administrative rule and a “Taxpayer Information Publication” was very effective during the past six tax-free holidays in implementing the tax-free acts.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Government Efficiency Appropriations Committee

BILL: SB 1198

INTRODUCER: Senator Atwater

SUBJECT: Corporate Income Tax

DATE: February 1, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fournier <i>EF</i>	Johansen <i>MJ</i>	GE	Pre-meeting
2.				
3.				
4.				
5.				
6.				

I. Summary:

Senate Bill 1198 updates references in Chapter 220, Florida Statutes (the Florida Income Tax Code) to reflect changes in the U.S. Internal Revenue Code adopted after Jan 1, 2005.

This bill substantially amends s. 220.03, F.S.

II. Present Situation:

Florida's Corporate Income Tax Code follows the federal Internal Revenue Code by using federal rules and starting with federal taxable income as the tax base for the Florida income tax. Section 220.03, F.S., defines specific terms as they apply to Florida's Corporate Income Tax Code. The term "Internal Revenue Code" is defined to mean those provisions of the United States Internal Revenue Code of 1986, as amended, in effect on January 1, 2005.

III. Effect of Proposed Changes:

This bill updates the Florida Income Tax Code to reflect changes in the U.S. Internal Revenue Code enacted by Congress in effect January 1, 2006. This definition provides for "piggybacking" each change made during 2005 in the Internal Revenue Code. This bill shall take effect upon becoming a law and shall operate retroactively to January 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

This bill maintains the link between Florida's corporate income tax code and the federal income tax code.

**B. Private Sector Impact:**

This bill ensures that corporations that are subject to Florida corporate income tax can base their tax calculations on current IRS rules. Failure to pass this bill would result in increased bookkeeping burdens for these entities.

**C. Government Sector Impact:**

Since Florida's corporate income tax is based upon a taxpayer's income as calculated for federal tax purposes, Florida can rely on the efforts of the IRS to ensure the accuracy of the starting point for determining tax liability. Passage of this bill is necessary to maintain this relationship, which significantly decreases the cost of enforcing Florida's income tax law.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Government Efficiency Appropriations Committee

BILL: SPB 7080

INTRODUCER: For consideration by Government Efficiency Appropriations Committee

SUBJECT: Education Facilities

DATE: February 1, 2006 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gilreath <i>dcg</i>	Johansen <i>MJ</i>		<b>Pre-meeting</b>
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7080 revises statute to require Department of Education and Board of Governor’s staff to review and revise postsecondary space needs generation formulas used in the educational plant survey every 3 to 5 years; and increase the minimum utilization rate for classroom facilities to 50 hours per week and 70% occupancy.

This bill substantially amends section 1013.03 of the Florida Statutes

II. Present Situation:

Since 1995, the state’s public universities and community colleges have administered their own construction programs with oversight provided by individual boards of trustees. Postsecondary institutions are responsible for the condition of their facilities and for identifying the need for maintenance, remodeling, acquisition or new construction funds to meet current program needs and expected student growth. The institutions report this information through capital improvement plans that are submitted to their respective state-level divisions (the Board of Governors for the 11 colleges and universities and the Division of Community Colleges and Workforce Education for the 28 community colleges). The state divisions use this data to develop statewide funding recommendations that are included in the Department of Education’s K-20 Legislative Capital Outlay Budget Request. To assist in selecting projects to recommend for funding from among those submitted by the institutions, the state divisions use models and formulas that take into account what they have (present facilities inventory) in relation to what they need based on projected student enrollment, space utilization standards, and other factors to determine unmet space needs.

Postsecondary construction projects are funded from a variety of state and non-state sources. In Fiscal Year 2005-06, the Legislature appropriated \$743.8 million for postsecondary education fixed capital outlay projects, which includes construction and infrastructure projects and land acquisition. Public universities received 59% of these funds (\$436.8 million) while community colleges received 41% (\$307 million). Public Education Capital Outlay (PECO) funds are the largest source of legislative appropriation for postsecondary education fixed capital outlay projects. PECO funds are derived from gross receipt tax collections, bond sales and interest earnings. In Fiscal Year 2005-06, PECO funds accounted for 57.6% of fixed capital outlay appropriated funds for universities and 69% of community college capital outlay appropriations.

In January 2006, OPPAGA issued a report titled *Higher Education Facility Planning Process is Designed Reasonably Well; Improvements Could Maximize State Resources*, which examined the efficiency and effectiveness of the postsecondary facility planning process. OPPAGA's findings included:

- The projected decreases in available PECO funds may make it difficult for postsecondary institutions to fund facility projects. The November 2005 Revenue Estimating Conference projected a steep decrease in available PECO funds after 2006-07. These projections are based on predictions that future economic conditions will decrease gross receipts tax revenues, which are the dedicated source of PECO funds. The Estimating Conference projects that the total available PECO funds will drop from \$1.4 billion in Fiscal Year 2006-07 to \$386 million in Fiscal Year 2008-09 before beginning a gradual recovery. Coinciding with this decrease in available PECO funds is a projected 3% increase in students enrolling in public colleges and universities and an anticipated increase in competition for PECO funds to build additional K-12 classrooms to meet the requirements associated with the state class size amendment. In light of this situation, it is critical that postsecondary institutions use available fixed capital outlay funds as efficiently as possible.
- Formulas used to calculate postsecondary space needs are outdated and may overstate need for space. The state's process to identify and prioritize is largely established in Florida law. Two key steps in this process are developing institutions' educational plant surveys and capital improvement plans. Institutions use the educational plant survey to develop their annual Capital Improvement Plan. The educational plant survey uses several complex formulas to identify space needs at the institution level. However, the components that make up these formulas and the levels at which they have been set have not been evaluated for several years and may no longer reflect current institutional practices.
- The statutory standards used to measure statewide classroom utilization may also need to be updated. The Board of Governors and Division of Community Colleges and Workforce Education rank and pare down the projects submitted in the individual university and community college capital improvement plans to develop statewide recommendation for each system that are included in the Commissioner's K-20 Legislative Capital Outlay Budget Request. Staff make these project recommendations using data driven models that take into

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<sup>1</sup> In addition to PECO funds, there are several other sources of legislative appropriations for postsecondary education fixed capital outlay projects. These include general revenue, matching funds for donor contributions (Challenge Grants), and concurrency funds. Postsecondary institutions also pay for fixed capital outlay projects from funds generated from revenue generating sources such as parking garages and from direct support organizations such as foundations.



account present inventory, FTE projections, and space standards. These models identify the relative unmet need among the universities and community colleges for each category of space. Section 1013.03(2), F.S., provides that classrooms are to be used a minimum of 40 hours per week and that 60% of student stations are to be occupied. While Florida's 40/60 standard for classroom utilization is comparable to standards used by other states, it does not reflect how institutions currently use their space, which now routinely offer classes during the evenings and weekends outside of the traditional 40-hour period.

To ensure that current postsecondary space needs generation formulas used in the educational plant survey do not overstate the need for additional facilities, OPPAGA recommended Department of Education and Board of Governor's staff review and revise these formulas every 3 to 5 years. To better reflect how institutions currently use classroom space, OPPAGA also recommended the statutory standard of 40 hours per week and 60% occupancy minimum utilization rate for classroom facilities be changed to a standard of 50 hours per week and 70% occupancy.

### **III. Effect of Proposed Changes:**

**Section 1:** Revises s. 1013.03, F.S., to require Department of Education and Board of Governor's staff to review and revise postsecondary space needs generation formulas used in the educational plant survey every 3 to 5 years, to ensure that these formulas do not overstate the need for additional facilities; and increase the statutory standard of 40 hours per week and 60% occupancy minimum utilization rate for classroom facilities to a standard of 50 hours per week and 70% occupancy, to better reflect how institutions currently use classroom space.

**Section 2:** Provides an effective date of July 1, 2006.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

May improve classroom utilization and delay the need to build additional classrooms.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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1                   A bill to be entitled  
2           An act relating to educational facilities  
3           planning and use; amending s. 1013.03, F.S.;  
4           requiring that the utilization standards for  
5           educational space be updated periodically;  
6           increasing the minimum room utilization rate  
7           for postsecondary classrooms; providing an  
8           effective date.  
9

10   Be It Enacted by the Legislature of the State of Florida:  
11

12           Section 1. Subsection (2) of section 1013.03, Florida  
13   Statutes, is amended to read:

14           1013.03 Functions of the department.--The functions of  
15   the Department of Education as it pertains to educational  
16   facilities shall include, but not be limited to, the  
17   following:

18           (2) Establish, for the purpose of determining need,  
19   equitably uniform utilization standards for all types of like  
20   space, regardless of the level of education. The standards  
21   shall be reviewed and updated at a minimum of every 5 years in  
22   order to ensure that the standards accurately reflect the need  
23   for each type of space. These standards shall also establish,  
24   for postsecondary education classrooms, a minimum room  
25   utilization rate of 50 40 hours per week and a minimum station  
26   utilization rate of 70 60 percent. ~~These rates shall be~~  
27   ~~subject to increase based on national norms for utilization of~~  
28   ~~postsecondary education classrooms.~~

29           Section 2. This act shall take effect July 1, 2006.  
30  
31

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SENATE SUMMARY

Requires that the use standards for educational space be updated at least every 5 years. Increases the minimum room utilization rate for postsecondary classrooms.